

Amended
Resolution on Families and Communities Together (FACT Act)
Resolution Affirming the City of Troy as a Sanctuary City

Legislative Intent.

The City of Troy has a long history of welcoming immigrants to contribute to the social and cultural fabric of its society. Since 2016, there have been major changes to federal immigration policy to target non-criminals for deportation. Voluntary collaboration related to non-criminal deportation and detention between local law enforcement and the federal Immigration and Customs Enforcement (ICE) makes immigrants less likely to report crimes, act as witnesses in criminal investigations and prosecutions, and provide critical intelligence to law enforcement, which makes all residents more unsafe. The cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire City.

Definitions.

As used in this resolution, the following terms shall have the meanings indicated.

Civil immigration detainer – A detainer, also known as an administrative detainer, issued pursuant to 8 C.F.R. § 287.7 or any similar request from Immigration and Customs Enforcement (ICE) for detention of a person suspected of violating civil immigration law. A civil immigration detainer is signed only by an ICE agent with no oversight or signature by a judge.

WHEREAS, the City of Troy, New York is proud to be a city that values its ethnic, racial, linguistic, religious, and socioeconomic diversity as a source of our City's strength, and

WHEREAS, the City of Troy values the social, cultural and economic contributions that have been made by immigrants for the benefit of the City, and

WHEREAS, the City of Troy is committed to upholding and protecting the civil and human rights of all individuals within the City and has long prohibited discrimination based upon race, ethnicity, national origin, religion, gender identity, sexual orientation, or other protected characteristics in the provision of its services and the enforcement of laws; and

WHEREAS, the enforcement of federal immigration laws is the prerogative of federal enforcement agencies, not local law enforcement agencies; and

WHEREAS, it is particularly essential to ~~the mission of the City's emergency services departments~~ **public safety** that victims report crimes or injuries, cooperate fully in investigations, and summon help when needed; and

WHEREAS, ~~existing city policy the Troy Police Department currently has a practice that it does not inquire into a person's immigration status upon initial contact, and~~
the City of Troy currently does not to inquire about any person's immigration status unless their status is relevant to the service or benefit being requested or where an inquiry is lawfully required by federal, state or local law; and

WHEREAS, the City of Troy has no formal existing agreements to enforce federal immigration policy; and

WHEREAS, the Troy City Council is committed to resisting threats against privacy and liberty by taking meaningful steps to ensure that our communities are safe, and that all residents can live and pursue their livelihoods in peace and prosperity; and

WHEREAS, a number of municipalities around the country and in New York State **have adopted similar policies delineating the roles of municipal employees in immigration matters** ~~are resisting threats against individual rights to privacy and liberty by taking meaningful steps to ensure that communities are safe, and that all rights are respected so that their municipality may continue to thrive; and~~

WHEREAS, voluntary collaboration related to non-criminal deportation and detention between local law enforcement and the federal Immigration and Customs Enforcement (ICE) makes immigrants less likely to report crimes, act as witnesses in criminal investigations and prosecutions, and provide critical intelligence to law enforcement, and that the cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire City; and

WHEREAS, federal law does not require local law enforcement or other local service providers to inquire into an individual's immigration status or to respond to federal immigration and Customs Enforcement (ICE) detainer requests; and

WHEREAS, the Rensselaer County Sheriff's 287(g) agreement with ICE may undermine public trust and cooperation with law enforcement, and poses a threat to public safety and necessitates corrective action by the City of Troy:

WHEREAS, the City Council finds current federal practices of indefinite detention of immigrants and separation of families antithetical to the values of our City and Nation; and

WHEREAS, the New York State Legislature recently passed legislation that would allow undocumented immigrants to receive driver licenses, enhancing public safety, and;

WHEREAS, Rensselaer County Executive Steve McLaughlin and Clerk Frank Merola have made numerous public statements aimed at inciting xenophobia in our community and have committed to collaborating with federal immigration authorities regardless of State law; and

WHEREAS, Mayor Patrick Madden issued a memo to Troy City employees, including the Troy Police Department and Troy Fire Department, clarifying how and in what situations they should and should not cooperate with federal immigration authorities; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TROY, that the City of Troy hereby reaffirms its commitment to continue its longstanding and legal practice of not inquiring into the immigration status of individuals being provided local government services, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws; and

BE IT FURTHER RESOLVED, that the City of Troy Commission on Human Rights shall be appointed per City Code Chapter 51 and empowered to review and promote city policies and practices preventing discrimination, and to conduct public education encouraging participation of all residents with law enforcement and other civic services; and

~~**BE IT FURTHER RESOLVED** that no officer or employee of the City of Troy shall inquire into the immigration status of individuals being provided local government services, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully and expressly required by federal, state, or local laws; and~~

BE IT FURTHER RESOLVED, that the City of Troy Police Department **as per the Tenth Amendment to the United States Constitution, regarding the delineation of powers between federal and local authorities, City of Troy employees in their official capacity do not and** shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law, ~~whether~~ pursuant to Section 1357(g) of Title 8 of the United States Code; and

BE IT FURTHER RESOLVED, that the City of Troy Police Department **and Troy City Marshals** shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual; and

BE IT FURTHER RESOLVED, that **in keeping with the 4th Amendment to the United States Constitution, regarding requirements for warrants**, the City of Troy Police Department shall not stop, question, interrogate, investigate, arrest or detain an individual based solely on actual or suspected immigration or citizenship status, or a ~~"civil immigration warrant," administrative warrant, or an~~ **for a civil** immigration detainer in the individual's name; and

BE IT FURTHER RESOLVED, that the City of Troy Police Department ~~shall not~~ **may only** engage, assist or support immigration enforcement ~~except~~ as follows:

- I. In response to an articulated, direct threat to life or public safety; or
- II. When such services are required to safely execute a criminal warrant or court order issued by a state or federal court; or
- III. Where it has been demonstrated that a state or federal statute or regulation require local law enforcement cooperation.

Approved as to form, November 27, 2018

JAMES A. CARUSO, ESQ. Corporation Counsel